

## ATTACHMENT A

### DECISIONS TO BE MADE PRIOR TO AMENDMENT OF STATE SPECIAL EDUCATION REGULATIONS BASED ON THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT OF 2004

The federal Individuals with Disabilities Education Act (IDEA) was amended in 2004. Because of changes in this federal law, Kentucky's state administrative regulations contained in 707 KAR Chapter 1 will have to be revised. Most of the changes are necessary in order to conform to the new federal law. There are several areas of the new federal law, however, that will require state regulations on subjects but will give discretion to the states. Consequently, the Kentucky Board of Education and the Kentucky Department of Education (KDE) must make decisions as to how to proceed in the drafting of state regulations around these issues. Below are the areas of IDEA that require states to make decisions as to what will best ensure an appropriate education for students with disabilities. Included in the last column are recommendations that represent at least a majority of the input from parents, teachers, administrators, students, KDE staff and others that were received through public forums and an electronic survey on the KDE web page.

Current State Regulation	Federal Statute	KDE Recommendations
<b>707 KAR 1:310 Eligibility</b>	<b>Decision point</b> Section 614 (6) lists new requirements for determining if a child has a <b>specific learning disability</b> . The proposed federal regulations address the issue of statewide v. districtwide eligibility criteria and indicate that the state <i>may</i> establish statewide criteria.	Stakeholders have overwhelmingly stated that it would be better to have statewide criteria for a specific learning disability. If districts set their own criteria, it would be very confusing for serving students who transfer from one district to another. A Learning Disabilities (LD) Task Force, consisting of stakeholders from school districts, higher education and KDE, has been meeting to review research and make recommendations for a uniform criteria for eligibility. The recommendations will be ready prior to the drafting of revised state administrative regulations.

<p><b>707 KAR 1:320 Individual education program</b></p>	<p><b>Decision point</b> Section 614 (a) (1) (C) allows for a <b>60-day timeline</b> from receipt of parent consent for initial evaluation until the eligibility determination for the student, unless the state has adopted a different timeline. The federal law means calendar day.</p> <p><b>Decision point</b> Section 614 (d) (1) (C) Federal law allows for an IEP team member to be excused from attending a meeting if the parents and LEA agree that attendance is not necessary because that member's curriculum area or related service is not being discussed or even if the member's area is to be discussed, that person can be excused if the parent and LEA agree and the member submits a report in writing to the meeting with their input on the development of the IEP.</p>	<p>707 KAR 1:320, Section 2 (2) states that "A Local Education Agency (LEA) shall ensure that within sixty (60) <b>school days</b> following the receipt of the parent consent for an initial evaluation of a child: (a) the child will be evaluated; and (b) if the child is eligible, specially designed instruction and related services will be provided in accordance with the Individual Education Program (IEP)." It is recommended to keep this language.</p> <p>707 KAR 1:320, Section 3 does not allow for any member to be excused from the Admissions and Release Committee (ARC) meeting. It is recommended that the federal standard not be adopted because this change could prohibit a thorough discussion of the needs of the student by all staff working with that student. Schools that are successfully closing the achievement gap use the ARC meeting as an opportunity for real planning and discussion about the student's needs. (The Kentucky Schools Board Association (KSBA) disagrees and would prefer to use the federal language that allows districts to make these decisions).</p>
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